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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/622,058	07/17/2003	Mark Linehan	SOM919980031US2	2265
58776	7590	04/25/2006	EXAMINER	
RYAN, MASON & LEWIS, LLP 90 FOREST AVENUE LOCUST VALLEY, NY 11560			CANGIALOSI, SALVATORE A	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 04/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 3621

1. Claims 1-67 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Taken as a whole the claims recite an undue multiplicity of claims by virtue of the unreasonable number of claims presented would tend to obfuscate, confuse, and becloud the claimed invention. Because the examiner believes that in his judgment that twenty (20) claims are sufficient to properly define applicants' invention, applicants are required to select certain claims, not to exceed twenty for examination on the merits of which no more than six are independent claims, See M.P.E.P. 2173.05(n). Note also, the office has held that more than six independent claims (4.9% of cases filed) in an application is unreasonable (See Federal register below). To be complete **the non-selected claims must be cancelled** or the applicant(s) must present appropriate arguments as to why the above rejection is in error. Note most patents (80%) have less than twenty claims while patents in excess of 70 claims are less than 1.23 per cent of all cases filed and thus rare (See Federal Register: October 5, 1998 (Volume 63, Number 192, Page 53507). Note also the new excess claim fees effective 12/8/04 as evidence of what is considered to be unreasonable.

It is further noted that it would appear that a multiplicity of inventions also appear to be involved and the applicants are

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requested to group their selection accordingly to read on a single invention. The applicant should group the claims according to what he believes to be distinct inventions that may be restricted in a subsequent action.

2. Claims 1-67 are rejected under 35 U.S.C. . 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

All old (patent) independent claims contain the alternative "and/or credit are available" which are not positive limitations. (See In re Collier, 158 USPQ 266) It is not clear what is being claimed. The claims require only a possibility rather than an actual limitation. For example, anything is possible given sufficient time and resources. Certain claims (55-67)) contain the terms "is available... will be able etc." which depend on the performance of future acts and are not positive limitations. (See In re Collier, 158 USPQ 266) It is not clear what is being claimed. The claims require only a possibility rather than an actual limitation. For example, anything is possible given sufficient time and resources.

Applicants are being afforded the courtesy of a written response due to the complexity of the case. Applicant's response filed 2/2/2006 is not responsive since no selection was made.

Any inquiry concerning this communication should be directed

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to Salvatore Cangialosi at telephone number **(571) 272-6927**. The examiner can normally be reached 6:30 Am to 5:00 PM, Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached at **(571) 272-6712**.

Any response to this action should be mailed to:

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to (571) 273-8300

Hand delivered responses should be brought to

United States Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 3600 Customer Service Office whose telephone number is **(571) 272-3600**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**SALVATORE CANGIALOSI
PRIMARY EXAMINER
ART UNIT 222**